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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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20350 7590 02/02/2009 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER CAMPEN, KELLY SCAGGS				
ART UNIT 3691		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/714,437

Applicant(s)

GRAVETT ET AL.

Examiner

KELLY CAMPEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The following is in response to the amendments and remarks filed on 11/18/2008.

Claims 1-24 are pending.

Information Disclosure Statement

The NPL submitted 2/7/2008 includes an extensive IDS which was filed in the related case 10/987031. If applicant intends to have the references considered, applicant should submit in a separate IDS listing each reference individually.

Specification

The abstract of the disclosure is objected to because it includes language which may be implied ("Embodiments of the invention provide" see below, emphasis added). Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-24 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

In view of the extensive 35 USC 112 second paragraph rejections, the prior are rejections will be applied as best may be understood by the Examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Neofytides et al. (US 2002/0152168).

Neofytides et al. disclose a payment system for open loop stored benefit products, the payment system comprising: a web-accessible platform available to a payor for purchase of a stored benefit account for use by a payee, wherein: the web-accessible platform in communication with a first application interface, the stored benefit account is backed by an account issuer, and the stored benefit account is accepted by a network of unrelated merchants who accept payments from the account issuer; a web interface executable by the web accessible platform, the web interface allows the payor or the payee to interact with the web-accessible platform; a credit processing system in communication with a second application interface; a translation system in communication with a first application interface and a second interface application, the translation system translates between the first application interface and the second application interface and wherein a purchaser interfaces with the web accessible platform through the web interface to purchase a stored value card, the web accessible platform receives credit card information from the purchaser to purchase the stored value card and sends a charge to the credit processing system through the translation system (see abstract, pages 1-3, figures 5-11).

Specifically as to claim 2, wherein the payor pays for the stored benefit account (see abstract, pages 1-3, figures 5-11, page 6).

Specifically as to claim 3, wherein the credit processing system includes a main flame running a main frame language (see abstract, pages 1-3, figures 5-11, especially see figures 5-6).

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Specifically as to claim 4, wherein: a card is issued to the payee, and the card facilitates payments from the stored benefit account (see abstract, pages 1-3, figures 5-11, especially see figure 8).

Specifically as to claim 5, wherein the first application interface uses XML (see abstract, pages 1-3, figures 5-11, page 6).

Specifically as to claim 6, wherein the stored benefit account corresponds to a benefit table for use by the network (see abstract, pages 1-3, figures 5-11, especially figures 5-6).

Specifically as to claim 7, wherein the stored benefit account corresponds to an amount of money usable with the network (see abstract, pages 1-3, figures 5-11, especially figure 8).

Specifically as to claim 8, wherein the translation system is integral with one of the credit processing system and the web-accessible platform (see abstract, pages 1-3, figures 5-11, page 6).

Specifically as to claim 9, wherein the web interface is hosted remote from the web-accessible platform (see abstract, pages 1-3, figures 5-11, especially figures 5-6).

Specifically as to claim 10, wherein the web-accessible platform does not store information that would allow a hacker, who compromised information stored on the web-accessible platform, to use the stored benefit account (see abstract, pages 1-3, figures 5-11, especially figure 8).

Specifically as to claim 11, wherein the account issuer is one of a plurality of account issuers that are part of a branded association that accept each others stored benefit account transactions (see abstract, pages 1-3, figures 5-11, page 6).

Specifically as to claim 12, wherein the open loop stored benefit products are based upon a credit card platform of the credit processing system (see abstract, pages 1-3, figures 5-11, especially figure 5a).

Specifically as to claim 13, Neofytides et al. disclose a payment system for open loop stored benefit products, the payment system comprising: a web-accessible platform available to a payor for purchase of a stored benefit account for use by a payee, wherein: the web-accessible platform in communication with a first application interface, the stored benefit account is backed by an account issuer, and the stored benefit account is accepted by a network of unrelated merchants who accept payments from the account issuer; a web interface executable by the web accessible platform, the web interface allows the payor or the payee to interact with the web- accessible platform; a credit processing system in communication with a second application interface; a translation system in communication with a first application interface and a second interface application, the translation system translates between the first application interface and the second application interface, wherein the account issuer is one of a plurality of account issuers that are part of a branded association that accept each others stored benefit account transactions and wherein a purchaser interfaces with the web accessible platform through the web interface to purchase a stored value card, the web accessible platform receives credit card information from the purchaser to purchase the stored value card and sends a charge to the credit processing system through the translation system (see abstract, pages 1-3, figures 5-11).

Specifically as to claim 14, wherein the payor pays for the stored benefit account (see abstract, pages 1-3, figures 5-11, see page 6).

Specifically as to claim 15, wherein the credit processing system includes a main frame running a main frame language account (see abstract, pages 1-3, figures 5-11 especially figures 5-6).

Specifically as to claim 16, a card is issued to the payee, and the card facilitates payments from the stored benefit account (see abstract, pages 1-3, figures 5-11, especially figure 8).

Specifically as to claim 17, wherein the first application interface uses XML account (see abstract, pages 1-3, figures 5-11, page 6, and page 2).

Specifically as to claim 18, the stored benefit account corresponds to a benefit table for use by the network account (see abstract, pages 1-3, figures 5-11, especially figures 5-6, 8).

Specifically as to claim 19, wherein the stored benefit account corresponds to an amount of money usable with the network account (see abstract, pages 1-3, figures 5-11, page 6).

Specifically as to claim 20, wherein the translation system is integral with one of the credit processing system and the web-accessible platform account (see abstract, pages 1-3, figures 5-11, page 2, 6).

Specifically as to claim 21, wherein the web interface is hosted remote from the web-accessible platform account (see abstract, pages 1-3, figures 5-11, especially figure 5a).

Specifically as to claim 22, wherein the web-accessible platform does not store information that would allow a hacker, who compromised information stored on the web-

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accessible platform, to use the stored benefit account (see abstract, pages 1-3, figures 5-11, especially figure 7).

Specifically as to claim 23, wherein the open loop stored benefit products are based upon a credit card platform of the credit processing system account (see abstract, pages 1-3, figures 5-11, especially figures 9a-11b).

Specifically as to claim 24, Neofytides et al. disclose a payment system for open loop stored benefit products, the payment system comprising: a web-accessible platform available to a payor for purchase of a stored benefit account for use by a payee, wherein: the web-accessible platform does not store information that would allow a hacker, who compromised information stored on the web-accessible platform, to use the stored benefit account, the web-accessible platform in communication with a first application interface, the payor pays for the stored benefit account, the stored benefit account corresponds to an amount of money usable with a network, the stored benefit account is backed by an account issuer, and the stored benefit account is accepted by the network of unrelated merchants who accept payments from the account issuer; a web interface executable by the web accessible platform allows the payor or the payee to interact with the web-accessible platform; a credit processing system communicating with a second application interface; and a translation system in communication with a first application interface and a second interface application, the translation system translates between the first application interface and the second application interface, wherein: the open loop stored benefit products are based upon a credit card platform of the credit processing system, the account issuer is one of a plurality of account issuers that are part of a branded association that accept each others stored benefit account transactions, a card is issued to

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the payee, the card facilitates payments from the stored benefit account and wherein a purchaser interfaces with the web accessible platform through the web interface to purchase a stored value card, the web accessible platform receives credit card information from the purchaser to purchase the stored value card and sends a charge to the credit processing system through the translation system (see abstract, pages 1-3, figures 5-11, page 7 and 4).

Examiner's Note

Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, **other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention**, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Response to Arguments

Applicant's arguments filed 11/18/2008 have been fully considered but they are not persuasive. With regards to applicant's argument that Neofytides et al. does not disclose "web accessible platform, a first application interface, a translation system, etc." nor an "open loop stored value processing system", Examiner disagrees. Neofytides et al. discloses a web accessible platform in paragraph [0023] (interfaced through the internet);

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a first application interface in figure 4 and paragraph [0025] (first application interface may be an agent interface and a second application interface may be a kiosk interface); and a translation system in paragraph [0025] (computers (120) are the translation system). Applicant did not define “etc.” in the arguments; therefore, Examiner is unclear to which limitation the applicant is arguing. Further, the system of Neofytides is directed to a stored value card and capable of performing the same function.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

In response to applicant's arguments, the recitation “open loop stored benefit system” has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

With regards to the 35 USC 112 2nd paragraph rejection of claims 1-24 directed to the use of the term “system” as being indefinite, applicant’s arguments have overcome the “system” aspect of the rejection.

In response to applicant's argument that Neofytides does not have an open loop system, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KELLY CAMPEN whose telephone number is (571)272-6740. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kelly Campen
Primary Examiner
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